In the High Court of Judicature at Madras

Dated:28.08.2006

Coram:

The Hon'ble Mr. Justice P. SATHASIVAM
and
The Hon'ble Mr. Justice S. MANIKUMAR

Habeas Corpus Petition No.816 of 2006

R. Chandrasekaran .. Petitioner

vs.

1. C. Uma Maheswari

2. Superintendent of Police
   Erode.

3. Natarajan
   Deputy Superintendent of Police
   (Erode Town) Erode.

4. The Inspector of Police
   All Women Police Station
   Erode.

5. The Sub Inspector of Police
   All Women Police Station
   Erode.

6. H. Veronica
   Head Constable No.210
   All Women Police Station
   Erode. .. Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of writ of habeas corpus as stated therein.

For petitioner : Mr. David Thyagaraj

For respondents 2 to 6 : Mr. M. Babu Muthu Meeran
Addl.Public Prosecutor
Mr. N. Manokaran for R.1

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ORDER

(Order of the Court was made by P. SATHASIVAM,J.)

The petitioner by name R. Chandrasekaran, has filed this petition for production of his minor son C. Vigneswaran, before this Court and hand over his custody to him.

2. Even at the stage of admission, first respondent, wife of the petitioner is represented by a counsel and she appeared before us. The detenu minor C. Vigneswaran, aged about 9 years also present along with his mother, first respondent herein. We enquired the first respondent. She complained about the conduct of the petitioner. In addition to the same, she brought to our notice about the order passed by the learned Principal District Judge, Erode dated 26.06.2006 in G.W.O.P.No.53 of 2005 and that is a petition filed by the first respondent herein, viz., C. Uma Maheswari under Sections 7(a), 8 and 10 of the Guardian and Wards Act, praying to appoint her as the guardian of minor Sanjuktha and Vigneswaran. The order which is available at page 3 of the typed set of papers shows that the said petition was contested by the respondent therein/petitioner herein and ultimately the learned Principal District Judge by order dated 26.06.2006, appointed the petitioner therein/mother, as the guardian of the minors.

3. Mr. David Thyagaraj, learned counsel appearing for the petitioner has stated that against the said order of the learned Principal District Judge, the respondent therein has filed CMA.No.2446 of 2006 before this Court and when the appeal came up for admission on 23.08.2006, this Court (E.D.R.,J.) posted the matter for final disposal after two weeks.

4. In view of the pendency of the above said appeal, we are not expressing anything on the orders of the learned Principal District Judge, Erode. However, the fact remains, as on date the detenu in this habeas corpus petition, viz., minor C. Vigneswaran, aged about 9 years is with the first respondent, who is none else than his mother. In such circumstances, it cannot be construed that the detenu is under the illegal custody of the first respondent. In the light of the order passed by the learned Principal District Judge, Erode, we are of the view that custody of the minor cannot be construed as improper and it is for the parties to work out their remedy before the appropriate forum. In fact, as observed earlier, the order of the learned Principal District Judge, Erode is under

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challenge by way of an appeal before this Court and subject to the result in the above said appeal, the petitioner can work out his remedy.

With the above observation, this petition is dismissed.

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Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Superintendent of Police
   Erode.

2. Natarajan
   Deputy Superintendent of Police
   (Erode Town) Erode.

3. The Inspector of Police
   All Women Police Station
   Erode.

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5. H. Veronica
   Head Constable No.210
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   Erode.

ONE CC TO MR.DAVID TYAGARAJ, ADVOCATE SR 38889

ONE CC TO MR.N. MANOKARAN, ADVOCATE SR 38767

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Order in
H.C.P.No.816 of 2006

GGK(CO)

BP/31.8 Dt.28.08.2006

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